

mies by which the remedy of their creditor Hepburn could have been in any degree affected. Hepburn might have proceeded by attachment at any time after his debt became due on the first of April, 1776, except within that short period during which, by the course of the Revolution, the Courts of justice were closed; and which it was declared should not be considered as a part of the time limited for bringing any action. February, 1777, ch. 15, s. 7.

But apart from the general principles of law in relation to this matter, it appears from the docket entries of the late General Court, that there were several attachments actually laid in the hands of Mollison's debtors during the war and before the peace of 1783; and besides, Hepburn's right to proceed by attachment against the property of the Mollisons here, at the time they were non-resident alien enemies, has been repeatedly recognized and affirmed in express terms by the Confiscation Acts themselves, already noticed, as well as by those I shall now proceed to consider.

The Act of October, 1780, ch. 5, s. 11, is in many respects an enactment of a very unusual and equivocal character. It authorized debtors of British subjects, such as the Mollisons then were, upon certain conditions and under certain regulations to pay the debts so due from them into the treasury. And many debts were so paid in accordingly. Upon which it afterwards became the subject of much litigation in the Courts of justice, and of long negotiation between the two nations to determine in what light those payments were to be considered as between those debtors and their creditors. It was finally determined, that as between them, such payments into the treasury were not to be deemed a satisfaction of those debts in any way. *Dulany v. Wells*, 3 H. & McH. 20; *The State of Georgia v. Brailsford*, 3 Dall. 1; *Ware v. Hylton*, 3 Dall. 199; *The Commonwealth v. Walker*, 1 Hen. & Mun. 144; 4 *Secret Jour. Cong.* 206; 6 *Southern Review*, 498. And, in consequence \*of that final determination, Maryland, by

**122** sundry resolutions, authorized the debtors to withdraw the amounts paid by them, respectively. Resol. 1797, No. 14 and 15; Resol. 1798, No. 30; 4 *Secret Jour. Cong.* 200. But all that relates to this view of the subject of this enactment is entirely foreign to the matter now under consideration.

This eleventh section of the Act of October, 1780, ch. 5, applied to nothing but the debts due to the Mollisons from the citizens of Maryland; under which it appears, that some of their debtors actually made payments into the treasury during the year 1781, to the amount of about \$9,000; and the Acts of April, 1782, ch. 46, and November, 1782, ch. 18, which, as it would seem, have been erroneously treated as private Acts, after reciting that Thomas Contee has been the factor and agent of the Mollisons, clothes him with full power to collect all debts due to them, for the benefit of